

CITY OF LAS VEGAS, NEW MEXICO

Ordinance No. 21-19

AN ORDINANCE TO AMEND the Code of the City of Las Vegas by repealing and replacing Section 389-15, entitled “Use of monies” and Section 389-6, entitled “Exemptions”, and by creating a new Article III in Section 160 entitled “Adult businesses”. This Ordinance is enacted pursuant to Sections 2.02 of the City of Las Vegas Municipal Charter, and is an exercise of the City’s home rule powers.

BE IT ENACTED by the Governing Body of the City of Las Vegas as follows:

Section 1. The Code of the City of Las Vegas, Section 389-15 is hereby deleted in its entirety and replaced to read as follows:

“The use of monies under this Chapter shall comply with NMSA 3-38-*et al*, as amended.”

Section 2. The Code of the City of Las Vegas, Section 389-6 is deleted in its entirety and replaced to read as follows:

“The exemptions from occupancy tax shall comply with NMSA 3-38-16, as amended.”

Section 3. The Code of the City of Las Vegas is hereby amended by adding thereto a new Article III entitled “Adult businesses” to read as follows:

160.26. Purpose.

A. There are some land uses which, because of their nature, are recognized as having serious objectionable characteristics, particularly when more than one are concentrated in one area thereby having a deleterious effect upon the use and enjoyment of adjacent areas. Special regulation of these uses is necessary to ensure that adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The primary purpose is for preventing a concentration of these uses in any one area.

B. Uses subject to this chapter are:

1. Adults-only bookstores;
2. Adults-only motion picture theaters;
3. Adult entertainment centers;
4. Massage parlors;
5. Saunas; and
6. Other such locations which provide any activities similar to the foregoing uses.

160.27. Definitions

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADULT ENTERTAINMENT CENTER. An enclosed building or a part of an enclosed building, which contains one or more mechanisms which, when activated, permit a customer to view a live person unclothed or in attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola, or any portion of the pubic area, anus, cleft of the buttocks, vulva of genitals or an enclosed building or a part of an enclosed building to which there is charged any admission or fee for the viewing of any activity as described in this Section.

ADULTS-ONLY BOOKSTORE. An establishment having as a portion of its stock in trade, books, magazines, films or other materials for rent or sale and other periodicals which are distinguished or characterized by their principal emphasis on matter depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined below, or having equipment for viewing on premises by use of motion picture devices or other means.

ADULTS-ONLY MOTION PICTURE THEATER. An enclosed building used regularly or routinely for presenting programs, material distinguished or characterized by an emphasis on matter depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined below, for observation by patrons therein.

MASSAGE PARLOR. An establishment or place primarily in the business of providing massage services other than by licensed massage therapists under the New Mexico Therapy Practice Act, NMSA 61-12C-1 et seq.

NUDITY. The showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a full opaque covering of any portion of the aureola thereof, or the depiction of covered male genitals in a discernible turgid state.

SADOMASOCHISTIC ABUSE. Flagellation or torture in which one person is depicted as enjoying the infliction of physical or mental suffering on another person, who is depicted as deriving pleasure from experiencing pain.

SAUNA. An establishment or place primarily in the business of providing a steam bath and massage services other than by licensed massage therapists under the New Mexico Therapy Practice Act, NMSA 61-12C-1 et seq.

SEXUAL CONDUCT. Acts of masturbation, sodomy, sexual intercourse or physical contact with a person's unclothed genitals, pubic area, buttocks or, if the person be a female, her breast.

SEXUAL EXCITEMENT. The condition of human male or female genitals when in a state of sexual stimulation or arousal.

160-28. Location restriction.

A. Adults-only bookstores, motion picture theaters, adult entertainment centers, massage parlors or saunas. No adults-only bookstore, adults-only motion picture theater, adult entertainment center, massage parlor or sauna shall be located, operated or maintained except within a C-1, retail commercial district.

B. All regulated uses. Any and all adults-only bookstores, adults-only motion picture theaters, adult entertainment centers, massage parlors or saunas shall not be permitted on an exterior portion of a lot, unit, building or structure, and shall maintain a minimum separation distance of at least a 1,000 foot radius, with the radius being measured from the subject property boundaries, from any residentially zoned district, house of worship, daycare center, public library, educational facility, cannabis consumption area or any location engaging in commercial cannabis activity. Only one of the above regulated uses shall be allowed per block face.

C. Any and all adults-only bookstores, adults-only motion picture theaters, adult entertainment centers, massage parlors or saunas, shall have initial code inspections by various departments of the City, shall comply with any and all requirements and conditions of said inspections prior to providing any sales or services, and shall submit to periodic code inspections. Fees for various code inspections:

Fire inspection: \$150.00

Water and wastewater inspection: \$150.00

Building inspection: \$150.00

Security inspection: \$150.00

D. Any and all adults-only bookstores, adults-only motion picture theaters, adult entertainment centers, massage parlors or saunas shall not be observable or perceptible from adjacent or nearby properties, or the exterior of the lot, building or unit in which the activity takes place or is located, including without limitation: (a) common visual observation or any form of signage not approved by the City; (b) light pollution, glare or brightness that disturbs others or affects property in the vicinity; or (c) noise which disturbs others or affects property in the vicinity. While City-approved signage may be located on the exterior of the building or unit, and persons may have a general knowledge that adult-related goods and services may be obtained at the location, the activities at such location shall conform to the requirements in this Subsection D.

160-29. Activity restrictions.

A. None of the activities described in this Section 160, Article III may serve or sell alcohol or cannabis.

B. No business shall permit the entry of minors under the age of 18 years.

C. Any and all adults-only bookstores, adults-only motion picture theaters, adult entertainment centers, massage parlors or saunas shall limit their hours of operation to the hours between noon and 11:00p.m. from Monday to Saturday, and between noon and 10:00pm on Sundays, and shall

have fulltime in-person security to prevent access for those under the age of 18 years and others who are not permitted in such establishments. The sales or service of any activity described in this Section 160, Article III from mobile, portable or temporary units, or drive-through locations is prohibited.

160-30. Sign requirements.

All uses under this Section 160, Article III shall comply with the following sign requirements:

A. All signs shall conform to the City's existing sign ordinances.


B. No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from outside the building.

C. Window areas shall not be covered or made opaque in any way. No signs shall be placed in any window. A one-square-foot sign may be placed on the door to state hours of operation and admittance to adults only.

Section 4. Severability. The provisions of this ordinance are declared to be severable, and if any portion of this ordinance, for any reason, is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this ordinance.

Section 5. Effective Date. This ordinance shall become effective upon the execution by the Mayor and the affirmative vote of the majority of the Governing Body.

PASSED, ADOPTED and ENACTED this 8th day of December, 2021.



Mayor Louie A. Trujillo

ATTEST:

Reviewed and approved as to legal sufficiency only:



Cassandra Fresquez, City Clerk



Scott Aaron, City Attorney